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OFFICE OF PETITIONS

In re Application of
James S. Rosen et al.
Application No. 09/628,880
Filed: July 31, 2000
Attorney Docket No. COMET-003XX

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed October 21, 2005, to revive the above-identified application.


The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed April 7, 2005. A response was filed September 26, 2005 with a three month extension of time request however, by Advisory Action of October 14, 2005, petitioner was advised that the response did not place the application in condition for allowance. Although this application became abandoned on July 8, 2005, the instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the previously filed amendment, filed September 26, 2005, be used as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 2151 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).